

U.S.DEPARTMENTOFLABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

DATE: May 4, 1992  
CASE NO. 83-CTA-90

IN THE MATTER OF

NEW YORE STATE  
DEPARTMENT OF LABOR,

COMPLAINANT,

v .

U. S. DEPARTMENT OF LABOR,

RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

ORDER ASSERTING JURISDICTION AND REMAND

Upon consideration of the Complainant's Application for Review and Statement of Exceptions, and pursuant to the regulations at 20 C.F.R. § 676.91(f) (1990), it is Ordered that:

1. Jurisdiction is asserted in this case and the Findings of Fact and Conclusions of Law - and Order of the presiding Administrative Law Judge (ALJ) dated March 12, 1992, and his Order Denying Motion to Vacate Default Order, dated March 31, 1992, are VACATED pending further proceedings in this matter: and that
2. This case is hereby REMANDED to the presiding Administrative Law Judge for reconsideration and redetermination, including consideration of Complainant's post-hearing brief, and for such further proceedings as are appropriate.

It appears that the ALJ's decision of March 12, 1992, and the Complainant's brief, dated March 13, 1992, crossed in the mail,

and that Complainant's attorney's default in filing Complainant's post-hearing brief may have been inadvertent. Since (1) the parties agreed that no testimonial evidence was necessary and the post-hearing brief is the only method available to the Complainant to present its opposition to the Grant Officer's disallowances: (2) there is no showing that Respondent is prejudiced by the delay and substantial monies are involved; and (3) the Federal Rules of Civil Procedure, specifically Rules 55(c) and 60(b)(1) and (6) **(1991)**, contemplate the availability of relief from a default judgment, I find that in this case, the relief requested by Complainant is appropriate. I note that the Comprehensive Employment and Training Act, 29 U.S.C. §§ 801-999 (Supp. V 1981) was repealed almost ten years ago, and direct that this case would be addressed expeditiously on remand.

SO ORDERED.

  
Secretary of Labor

Washington, D.C.

CERTIFICATE OF SERVICE

Case Name: In the Matter of New York State Department of Labor v. U.S. Denartment of Labor

Case No. : 83-CTA-90

Document : Order Asserting Jurisdiction

A copy of the above-referenced document **was** sent to the following persons on MAY 4 1992

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